

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY DIVISION**

PHILLIPS MACHINE SERVICE, INC., *et al.*

Plaintiffs,

v.

SOUTHERN COAL CORPORATION, *et al.*

Defendants.

NORFOLK SOUTHERN RAILWAY COMPANY

Garnishee.

Civil Action No. 5:14-cv-27107
The Honorable Irene C. Berger

ANSWER TO SUGGESTIONS

Garnishee, Norfolk Southern Railway Company, (“Norfolk Southern”), hereby submits the following answer in response to the Suggestions of Plaintiffs Phillips Machine Service, Inc. and The Combs Group, Inc., (collectively “Judgment Creditors”):

1. Garnishee, Norfolk Southern, an interstate rail carrier, was served with Suggestions in the above-referenced matter requiring it to serve upon Judgment Creditors an answer to those Suggestions.

2. At the time of service of the Suggestions, Norfolk Southern did not have in its possession or under its control any money or property in the name of or due and owing to any of the following entities: Southern Coal Corporation, Kentucky Fuel Corporation, A & G Coal Corporation, Virginia Fuel Corporation, Sequoia Energy, LLC, Justice Low Seam Mining, Inc. and Black River Coal, LLC, (collectively “Judgment Debtors”). By way of further answer, any attempt to garnish property that is in Norfolk Southern’s possession for the purpose of interstate transportation is preempted by federal law; transportation of freight by rail carriers, and related

practices and remedies are subject to the exclusive jurisdiction of the Surface Transportation Board. Federal statutes and regulations preempt state law that interferes with rail operations.

NORFOLK SOUTHERN RAILWAY COMPANY

By: /s/ Alexis B. Mattingly
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the forgoing "***ANSWER TO SUGGESTIONS***" upon the following individuals was this day forwarded upon counsel of record via electronic filing with the Court's CM/ECF system on the 30th day of December, 2014, to:

Marc Weintraub, Esquire
Isaac Forman, Esquire
Bailey & Glasser, LLP
209 Capitol Street
Charleston, WV 25301

/s/ Alexis B. Mattingly